

AMENDED IN SENATE MARCH 29, 2007

**SENATE BILL**

**No. 710**

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**Introduced by Senator Dutton**

(Coauthors: Assembly Members Adams and Emmerson)

February 23, 2007

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An act to amend Section ~~11462~~ 1520.1 of the Health and Safety Code, and to amend Sections 11462 and 11462.01 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 710, as amended, Dutton. AFDC-FC: group homes: rates.

*Existing law, the California Community Care Facilities Act, requires the State Department of Social Services to license and regulate community care facilities, including group homes.*

Existing law, pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires the ~~State Department of Social Services~~ department to classify group home programs and to establish rates for foster care providers licensed by the department as group homes according to those classifications. Existing law prohibits the department from establishing a rate for a new program of a new or existing provider, or for a new program at a new location for an existing provider, unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county, that the provider is capable of effectively and efficiently operating the program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

This bill would delete the authority for the letter of recommendation to be issued by the primary placing county ~~or regional consortium of counties~~, thus requiring the letter of recommendation to be issued only by the host county *or regional consortium of counties*. *The bill would require an applicant for a group home facility license to provide the department with a letter of recommendation from the host county or regional consortium of counties, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1520.1 of the Health and Safety Code is  
2     amended to read:  
3     1520.1. In addition to Section 1520, applicants for a group  
4     home facility license shall meet the following requirements:  
5     (a) (1) During the first 12 months of operation, the facility shall  
6     operate with a provisional license. After eight months of operation,  
7     the department shall conduct a comprehensive review of the facility  
8     for compliance with all applicable laws and regulations and help  
9     develop a plan of correction with the provisional licensee, if  
10    appropriate. By the end of the 12th month of operation, the  
11    department shall determine if the permanent license should be  
12    issued.  
13    (2) If the department determines that the group home is in  
14    substantial compliance with licensing standards, notwithstanding  
15    Section 1525.5, the department may extend the provisional license  
16    for up to an additional six months for either of the following  
17    reasons:  
18    (A) The group home requires additional time to be in full  
19    compliance with licensing standards.  
20    (B) After 12 months of operation, the group home is not  
21    operating at 50 percent of its licensed capacity.  
22    (3) By no later than the first business day of the 17th month of  
23    operation, the department shall conduct an additional review of a  
24    facility for which a provisional license is extended pursuant to  
25    paragraph (2), in order to determine whether a permanent license  
26    should be issued.  
27    (4) The department may deny a group home license application  
28    at any time during the term of the provisional license to protect

1 the health and safety of clients. If the department denies the  
2 application, the group home shall cease operation immediately.  
3 Continued operation of the facility after the department denies the  
4 application or the provisional license expires shall constitute  
5 unlicensed operation.

6 (5) When the department notifies a city or county planning  
7 authority pursuant to subdivision (c) of Section 1520.5, the  
8 department shall briefly describe the provisional licensing process  
9 and the timelines provided for under that process, as well as provide  
10 the name, address, and telephone number of the district office  
11 licensing the facility where a complaint or comment about the  
12 group home's operation may be filed.

13 (6) *The group home applicant shall provide a letter of*  
14 *recommendation from the host county or regional consortium of*  
15 *counties, pursuant to Section 11462 of the Welfare and Institutions*  
16 *Code.*

17 (b) (1) After the production of the booklet provided for in  
18 paragraph (2), every member of the group home's board of  
19 directors shall, prior to becoming a member of the board of  
20 directors sign a statement that the board member understands his  
21 or her legal duties and obligations as a member of the board of  
22 directors and that the group home's operation is governed by laws  
23 and regulations that are enforced by the department, as set forth  
24 in the booklet. The applicant, provisional licensee, and licensee  
25 shall have this statement available for inspection by the department.  
26 For members of the board of directors when the booklet is  
27 produced, the licensee shall obtain this statement by the next  
28 scheduled meeting of the board of directors. Compliance with this  
29 paragraph shall be a condition of licensure.

30 (2) No later than May 1, 1999, the department, in cooperation  
31 with the Department of Justice and in consultation with group  
32 home providers, shall develop and distribute to every group home  
33 provider detailed information designed to educate members of the  
34 group home provider's board of directors of their roles and  
35 responsibilities as board members of a public benefit corporation  
36 under the laws of this state. The information shall be included in  
37 a booklet, which shall include, but not be limited to, all of the  
38 following:

39 (A) The financial responsibilities of a member of the board of  
40 directors.

1 (B) Disclosure requirements for self-dealing transactions.

2 (C) Legal requirements pertaining to articles of incorporation,  
3 bylaws, length of board member terms, voting procedures, board  
4 meetings, quorums, minutes of board meetings, and, as provided  
5 for in subdivision (f), board member duties.

6 (D) A general overview of the laws and regulations governing  
7 the group home's operation that are enforced by the department.

8 (c) All financial records submitted by a facility to the  
9 department, or that are submitted as part of an audit of the facility,  
10 including, but not limited to, employee timecards and timesheets,  
11 shall be signed and dated by the employee and by the group home  
12 representative who is responsible for ensuring the accuracy of the  
13 information contained in the record, and shall contain an  
14 affirmative statement that the signatories understand that the  
15 information contained in the document is correct to the best of  
16 their knowledge and that submission of false or misleading  
17 information may be prosecuted as a crime.

18 (d) An applicant, provisional licensee, or licensee shall maintain,  
19 submit, and sign financial documents to verify the legitimacy and  
20 accuracy of these documents. These documents include, but are  
21 not limited to, the group home application, any financial documents  
22 and plans of corrections submitted to the department, and time  
23 sheets.

24 (e) (1) It is the intent of the Legislature that a group home have  
25 either representatives on its board of directors, as listed in  
26 paragraph (2), or a community advisory board, that meets at least  
27 annually.

28 (2) The representatives on the board of directors or the  
29 community advisory board members should consist of at least the  
30 following persons:

31 (A) A member of the facility's board of directors.

32 (B) Members of the community where the facility is located.

33 (C) Neighbors of the facility.

34 (D) Current or former clients of the facility.

35 (E) A representative from a local law enforcement or other city  
36 or county representative.

37 (f) Each group home provider shall schedule and conduct  
38 quarterly meetings of its board of directors. During these quarterly  
39 meetings, the board of directors shall review and discuss licensing  
40 reports, financial and program audit reports of its group home

operations, special incident reports, and any administrative action against the licensee or its employees. The minutes shall reflect the board's discussion of these documents and the group home's operation. The licensee shall make available the minutes of group home board of directors meetings to the department.

**SECTION 1.**

*SEC. 2.* Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(3) (A) The department shall determine, consistent with the requirements of this chapter and other relevant requirements under law, the rate classification level (RCL) for each group home program on a biennial basis. Submission of the biennial rate application shall be made according to a schedule determined by the department.

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the

1 department and described in the report, “The Classification of  
2 Group Home Programs under the Standardized Schedule of Rates  
3 System,” prepared by the State Department of Social Services,  
4 August 30, 1989.

5 (c) The rate for each RCL has been determined by the  
6 department with data from the AFDC-FC Group Home Rate  
7 Classification Pilot Study. The rates effective July 1, 1990, were  
8 developed using 1985 calendar year costs and reflect adjustments  
9 to the costs for each fiscal year, starting with the 1986–87 fiscal  
10 year, by the amount of the California Necessities Index computed  
11 pursuant to the methodology described in Section 11453. The data  
12 obtained by the department using 1985 calendar year costs shall  
13 be updated and revised by January 1, 1993.

14 (d) As used in this section, “standardized schedule of rates”  
15 means a listing of the 14 rate classification levels, and the single  
16 rate established for each RCL.

17 (e) Except as specified in paragraph (1), the department shall  
18 determine the RCL for each group home program on a prospective  
19 basis, according to the level of care and services that the group  
20 home operator projects will be provided during the period of time  
21 for which the rate is being established.

22 (1) (A) For new and existing providers requesting the  
23 establishment of an RCL, and for existing group home programs  
24 requesting an RCL increase, the department shall determine the  
25 RCL no later than 13 months after the effective date of the  
26 provisional rate. The determination of the RCL shall be based on  
27 a program audit of documentation and other information that  
28 verifies the level of care and supervision provided by the group  
29 home program during a period of the two full calendar months or  
30 60 consecutive days, whichever is longer, preceding the date of  
31 the program audit, unless the group home program requests a lower  
32 RCL. The program audit shall not cover the first six months of  
33 operation under the provisional rate. Pending the department’s  
34 issuance of the program audit report that determines the RCL for  
35 the group home program, the group home program shall be eligible  
36 to receive a provisional rate that shall be based on the level of care  
37 and service that the group home program proposes it will provide.  
38 The group home program shall be eligible to receive only the RCL  
39 determined by the department during the pendency of any appeal  
40 of the department’s RCL determination.

1 (B) A group home program may apply for an increase in its  
2 RCL no earlier than two years from the date the department has  
3 determined the group home program's rate, unless the host county,  
4 the primary placing county, or a regional consortium of counties  
5 submits to the department in writing that the program is needed  
6 in that county, that the provider is capable of effectively and  
7 efficiently operating the proposed program, and that the provider  
8 is willing and able to accept AFDC-FC children for placement  
9 who are determined by the placing agency to need the level of care  
10 and services that will be provided by the program.

11 (C) To ensure efficient administration of the department's audit  
12 responsibilities, and to avoid the fraudulent creation of records,  
13 group home programs shall make records that are relevant to the  
14 RCL determination available to the department in a timely manner.  
15 Except as provided in this section, the department may refuse to  
16 consider, for purposes of determining the rate, any documents that  
17 are relevant to the determination of the RCL that are not made  
18 available by the group home provider by the date the group home  
19 provider requests a hearing on the department's RCL  
20 determination. The department may refuse to consider, for purposes  
21 of determining the rate, the following records, unless the group  
22 home provider makes the records available to the department  
23 during the fieldwork portion of the department's program audit:

24 (i) Records of each employee's full name, home address,  
25 occupation, and social security number.

26 (ii) Time records showing when the employee begins and ends  
27 each work period, meal periods, split shift intervals, and total daily  
28 hours worked.

29 (iii) Total wages paid each payroll period.

30 (iv) Records required to be maintained by licensed group home  
31 providers under Title 22 of the California Code of Regulations  
32 that are relevant to the RCL determination.

33 (D) To minimize financial abuse in the startup of group home  
34 programs, when the department's RCL determination is more than  
35 three levels lower than the RCL level proposed by the group home  
36 provider, and the group home provider does not appeal the  
37 department's RCL determination, the department shall terminate  
38 the rate of a group home program 45 days after issuance of its  
39 program audit report. When the group home provider requests a  
40 hearing on the department's RCL determination, and the RCL

1 determined by the director under subparagraph (E) is more than  
2 three levels lower than the RCL level proposed by the group home  
3 provider, the department shall terminate the rate of a group home  
4 program within 30 days of issuance of the director's decision.  
5 Notwithstanding the reapplication provisions in subparagraph (B),  
6 the department shall deny any request for a new or increased RCL  
7 from a group home provider whose RCL is terminated pursuant  
8 to this subparagraph, for a period of no greater than two years from  
9 the effective date of the RCL termination.

10 (E) A group home provider may request a hearing of the  
11 department's RCL determination under subparagraph (A) no later  
12 than 30 days after the date the department issues its RCL  
13 determination. The department's RCL determination shall be final  
14 if the group home provider does not request a hearing within the  
15 prescribed time. Within 60 days of receipt of the request for  
16 hearing, the department shall conduct a hearing on the RCL  
17 determination. The standard of proof shall be the preponderance  
18 of the evidence and the burden of proof shall be on the department.  
19 The hearing officer shall issue the proposed decision within 45  
20 days of the close of the evidentiary record. The director shall adopt,  
21 reject, or modify the proposed decision, or refer the matter back  
22 to the hearing officer for additional evidence or findings within  
23 100 days of issuance of the proposed decision. If the director takes  
24 no action on the proposed decision within the prescribed time, the  
25 proposed decision shall take effect by operation of law.

26 (2) Group home programs that fail to maintain at least the level  
27 of care and services associated with the RCL upon which their rate  
28 was established shall inform the department. The department shall  
29 develop regulations specifying procedures to be applied when a  
30 group home fails to maintain the level of services projected,  
31 including, but not limited to, rate reduction and recovery of  
32 overpayments.

33 (3) The department shall not reduce the rate, establish an  
34 overpayment, or take other actions pursuant to paragraph (2) for  
35 any period that a group home program maintains the level of care  
36 and services associated with the RCL for children actually residing  
37 in the facility. Determinations of levels of care and services shall  
38 be made in the same way as modifications of overpayments are  
39 made pursuant to paragraph (2) of subdivision (b) of Section  
40 11466.2.



(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years is:

Rate	Point Ranges	FY 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07
Classification		Standard Rate
Level		
1	Under 60	\$1,454
2	60- 89	1,835
3	90-119	2,210
4	120-149	2,589
5	150-179	2,966
6	180-209	3,344
7	210-239	3,723
8	240-269	4,102
9	270-299	4,479
10	300-329	4,858
11	330-359	5,234
12	360-389	5,613
13	390-419	5,994
14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03, 2003–04, 2004–05, 2005–06, and 2006–07 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate	Adjusted Point Ranges
Classification	for the 2002-03, 2003-04,

		2004-05, 2005-06, and 2006-07
1		
2	Level	Fiscal Years
3	1	Under 54
4	2	54- 81
5	3	82-110
6	4	111-138
7	5	139-167
8	6	168-195
9	7	196-224
10	8	225-253
11	9	254-281
12	10	282-310
13	11	311-338
14	12	339-367
15	13	368-395
16	14	396 & Up

17

18 (B) Notwithstanding subparagraph (A), foster care providers  
 19 operating group homes during the 2002–03, 2003–04, 2004–05,  
 20 2005–06, and 2006–07 fiscal years shall remain responsible for  
 21 ensuring the health and safety of the children placed in their  
 22 programs in accordance with existing applicable provisions of the  
 23 Health and Safety Code and community care licensing regulations,  
 24 as contained in Title 22 of the Code of California Regulations.

25 (C) Subparagraph (A) shall not apply to program audits of group  
 26 home programs with provisional rates established pursuant to  
 27 paragraph (1) of subdivision (e). For those program audits, the  
 28 RCL point ranges in paragraph (1) shall be used.

29 (g) (1) (A) For the 1999–2000 fiscal year, the standardized  
 30 rate for each RCL shall be adjusted by an amount equal to the  
 31 California Necessities Index computed pursuant to the methodology  
 32 described in Section 11453. The resultant amounts shall constitute  
 33 the new standardized schedule of rates, subject to further  
 34 adjustment pursuant to subparagraph (B).

35 (B) In addition to the adjustment in subparagraph (A),  
 36 commencing January 1, 2000, the standardized rate for each RCL  
 37 shall be increased by 2.36 percent, rounded to the nearest dollar.  
 38 The resultant amounts shall constitute the new standardized  
 39 schedule of rates.

1 (2) Beginning with the 2000–01 fiscal year, the standardized  
2 schedule of rates shall be adjusted annually by an amount equal  
3 to the CNI computed pursuant to Section 11453, subject to the  
4 availability of funds. The resultant amounts shall constitute the  
5 new standardized schedule of rates.

6 (3) Effective January 1, 2001, the amount included in the  
7 standard rate for each Rate Classification Level (RCL) for the  
8 salaries, wages, and benefits for staff providing child care and  
9 supervision or performing social work activities, or both, shall be  
10 increased by 10 percent. This additional funding shall be used by  
11 group home programs solely to supplement staffing, salaries,  
12 wages, and benefit levels of staff specified in this paragraph. The  
13 standard rate for each RCL shall be recomputed using this adjusted  
14 amount and the resultant rates shall constitute the new standardized  
15 schedule of rates. The department may require a group home  
16 receiving this additional funding to certify that the funding was  
17 utilized in accordance with the provisions of this section.

18 (h) The standardized schedule of rates pursuant to subdivisions  
19 (f) and (g) shall be implemented as follows:

20 (1) Any group home program that received an AFDC-FC rate  
21 in the prior fiscal year at or above the standard rate for the RCL  
22 in the current fiscal year shall continue to receive that rate.

23 (2) Any group home program that received an AFDC-FC rate  
24 in the prior fiscal year below the standard rate for the RCL in the  
25 current fiscal year shall receive the RCL rate for the current year.

26 (i) (1) The department shall not establish a rate for a new  
27 program of a new or existing provider, or for an existing program  
28 at a new location of an existing provider, unless the provider  
29 submits a letter of recommendation from the host county *or a*  
30 *regional consortium of counties* that includes all of the following:

31 (A) That the program is needed by that county.

32 (B) That the provider is capable of effectively and efficiently  
33 operating the program.

34 (C) That the provider is willing and able to accept AFDC-FC  
35 children for placement who are determined by the placing agency  
36 to need the level of care and services that will be provided by the  
37 program.

38 (D) *If the letter of recommendation is not being issued by the*  
39 *host county, that the regional consortium of counties has notified*  
40 *the host county of its intention to issue the letter and the host county*

1 *was given the opportunity within 30 days to respond to this*  
2 *notification and to discuss options with the regional consortium*  
3 *of counties.*

4 (2) The department shall encourage the establishment of  
5 consortia of county placing agencies on a regional basis for the  
6 purpose of making decisions and recommendations about the need  
7 for, and use of, group home programs and other foster care  
8 providers within the regions.

9 (3) The department shall annually conduct a county-by-county  
10 survey to determine the unmet placement needs of children placed  
11 pursuant to Section 300 and Section 601 or 602, and shall publish  
12 its findings by November 1 of each year.

13 (j) The department shall develop regulations specifying  
14 ratesetting procedures for program expansions, reductions, or  
15 modifications, including increases or decreases in licensed capacity,  
16 or increases or decreases in level of care or services.

17 (k) (1) For the purpose of this subdivision, “program change”  
18 means any alteration to an existing group home program planned  
19 by a provider that will increase the RCL or AFDC-FC rate. An  
20 increase in the licensed capacity or other alteration to an existing  
21 group home program that does not increase the RCL or AFDC-FC  
22 rate shall not constitute a program change.

23 (2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the  
24 rate for a group home program shall not increase, as the result of  
25 a program change, from the rate established for the program  
26 effective July 1, 2000, and as adjusted pursuant to subparagraph  
27 (B) of paragraph (1) of subdivision (g), except as provided in  
28 paragraph (3).

29 (3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years,  
30 the department shall not establish a rate for a new program of a  
31 new or existing provider or approve a program change for an  
32 existing provider that either increases the program’s RCL or  
33 AFDC-FC rate, or increases the licensed capacity of the program  
34 as a result of decreases in another program with a lower RCL or  
35 lower AFDC-FC rate that is operated by that provider, unless both  
36 of the following conditions are met:

37 (i) The licensee obtains a letter of recommendation from the  
38 host county, ~~primary placing county~~, or regional consortium of  
39 counties regarding the proposed program change or new program.

1 (ii) The county determines that there is no increased cost to the  
2 General Fund.

3 (B) Notwithstanding subparagraph (A), the department may  
4 grant a request for a new program or program change, not to exceed  
5 25 beds, statewide, if both of the following conditions are met:

6 (i) The licensee obtains a letter of recommendation from the  
7 host county, ~~primary placing county~~, or regional consortium of  
8 counties regarding the proposed program change or new program.

9 (ii) The department determines that the new program or program  
10 change will result in a reduction of referrals to state hospitals  
11 during the 1998–99 fiscal year.

12 (l) General unrestricted or undesignated private charitable  
13 donations and contributions made to charitable or nonprofit  
14 organizations shall not be deducted from the cost of providing  
15 services pursuant to this section. The donations and contributions  
16 shall not be considered in any determination of maximum  
17 expenditures made by the department.

18 (m) The department shall, by October 1 of each year,  
19 commencing October 1, 1992, provide the Joint Legislative Budget  
20 Committee with a list of any new departmental requirements  
21 established during the previous fiscal year concerning the operation  
22 of group homes, and of any unusual, industrywide increase in costs  
23 associated with the provision of group care that may have  
24 significant fiscal impact on providers of group homes care. The  
25 committee may, in fiscal year 1993–94 and beyond, use the list to  
26 determine whether an appropriation for rate adjustments is needed  
27 in the subsequent fiscal year.

28 *SEC. 3. Section 11462.01 of the Welfare and Institutions Code*  
29 *is amended to read:*

30 11462.01. (a) Commencing July 1, 1994, a group home  
31 program shall be classified at RCL 13 or RCL 14 if the program  
32 meets all of the following requirements:

33 (1) The group home program is providing, or has proposed to  
34 provide, the level of care and services necessary to generate  
35 sufficient points in the ratesetting process to be classified at RCL  
36 13 if the rate application is for RCL 13 or to be classified at RCL  
37 14 if the rate application is for RCL 14.

38 (2) (A) (i) The group home provider shall agree not to accept  
39 for placement into a group home program AFDC-FC funded  
40 children, including voluntary placements and seriously emotionally

1 disturbed children placed out-of-home pursuant to an individualized  
2 education program developed under Section 7572.5 of the  
3 Government Code, who have not been approved for placement by  
4 an interagency placement committee, as described by Section 4096.  
5 The approval shall be in writing and shall indicate that the  
6 interagency placement committee has determined the child is  
7 seriously emotionally disturbed, as defined by Section 5600.3 and  
8 subject to Section 1502.4 of the Health and Safety Code, and that  
9 the child needs the level of care provided by the group home.

10 (ii) For purposes of clause (i), group home providers who accept  
11 seriously emotionally disturbed children who are assessed and  
12 placed out-of-home pursuant to an individualized education  
13 program developed under Section 7572.5 of the Government Code  
14 shall be deemed to have met the interagency placement committee  
15 approval for placement requirements of clause (i) if the  
16 individualized education program assessment indicates that the  
17 child has been determined to be seriously emotionally disturbed,  
18 as defined in Section 5600.3 and subject to Section 1502.4 of the  
19 Health and Safety Code, and needs the level of care described in  
20 clause (i).

21 (B) (i) Nothing in this subdivision shall prevent the emergency  
22 placement of a child into a group home program prior to the  
23 determination by the interagency placement committee pursuant  
24 to subclause (i) of subparagraph (A) if a licensed mental health  
25 professional, as defined in the department's AFDC-FC ratesetting  
26 regulations, has evaluated, in writing, the child within 72 hours of  
27 placement, and determined the child to be seriously emotionally  
28 disturbed and in need of the care and services provided by the  
29 group home program.

30 (ii) The interagency placement committee shall, within 30 days  
31 of placement pursuant to clause (i), make the determination  
32 required by clause (i) of subparagraph (A).

33 (iii) If, pursuant to clause (ii), the placement is determined to  
34 be appropriate, the committee shall transmit the approval, in  
35 writing, to the county placing agency and the group home provider.

36 (iv) If, pursuant to clause (ii) the placement is determined not  
37 to be appropriate, the child shall be removed from the group home  
38 and referred to a more appropriate placement, as specified in  
39 subdivision (f).

1 (C) Commencing December 15, 1992, with respect to AFDC-FC  
2 funded children, only those children who are approved for  
3 placement by an interagency placement committee may be accepted  
4 by a group home under this subdivision.

5 (3) The group home program is certified by the State Department  
6 of Mental Health pursuant to Section 4096.5.

7 (b) The department shall not establish a rate for a group home  
8 requesting a program change to RCL 13 or RCL 14 unless the  
9 group home provider submits a recommendation from the host  
10 county or the ~~primary placing county~~ *regional consortium of*  
11 *counties* that the program is needed and that the provider is willing  
12 and capable of operating the program at the level sought. For  
13 purposes of this subdivision, “host county,” ~~“primary placing~~  
14 ~~county,”~~ *“regional consortium of counties,”* and “program change”  
15 mean the same as defined in the department’s AFDC-FC ratesetting  
16 regulations.

17 (c) The effective date of rates set at RCL 13 or RCL 14 shall  
18 be the date that all the requirements are met, but not prior to July  
19 1 of that fiscal year. Nothing in this section shall affect RCL 13  
20 or RCL 14 ratesetting determinations in prior years.

21 (d) Any group home program that has been classified at RCL  
22 13 or RCL 14 pursuant to the requirements of subdivision (a) shall  
23 be reclassified at the appropriate lower RCL with a commensurate  
24 reduction in rate if either of the following occurs:

25 (1) The group home program fails to maintain the level of care  
26 and services necessary to generate the necessary number of points  
27 for RCL 13 or RCL 14, as required by paragraph (1) of subdivision  
28 (a). The determination of points shall be made consistent with the  
29 department’s AFDC-FC ratesetting regulations for other rate  
30 classification levels.

31 (2) The group home program fails to maintain a certified mental  
32 health treatment program as required by paragraph (3) of  
33 subdivision (a).

34 (3) In the event of a determination under paragraph (1), the  
35 group home may appeal the finding or submit a corrective action  
36 plan. The appeal process specified in Section 11466.6 shall be  
37 available to RCL 13 and RCL 14 group home providers. During  
38 any appeal, the group home shall maintain the appropriate level  
39 of care.

1 (e) The interagency placement committee shall periodically  
2 review, but no less often than that required by current law, the  
3 placement of the child. If the committee determines that the child  
4 no longer needs, or is not benefiting from, placement in a RCL 13  
5 or RCL 14 group home, the committee shall require the removal  
6 of the child and a new disposition.

7 (f) (1) (A) If, at any time subsequent to placement in an RCL  
8 13 or RCL 14 group home program, the interagency placement  
9 committee determines either that the child is not seriously  
10 emotionally disturbed or is not in need of the care and services  
11 provided by the group home program, it shall notify, in writing,  
12 both the county placing agency and the group home provider within  
13 10 days of the determination.

14 (B) The county placing agency shall notify the group home  
15 provider, in writing, within five days from the date of the notice  
16 from the committee, of the county's plan for removal of the child.

17 (C) The county placing agency shall remove the child from the  
18 group home program within 30 days from the date of the notice  
19 from the interagency placement committee.

20 (2) (A) If a county placing agency does not remove a child  
21 within 30 days from the date of the notice from the interagency  
22 placement committee, the group home provider shall notify the  
23 interagency placement committee and the department, in writing,  
24 of the county's failure to remove the child from the group home  
25 program.

26 (B) The group home provider shall make the notification  
27 required by subparagraph (A) within five days of the expiration  
28 of the 30-day removal period. If notification is made, a group home  
29 provider shall not be subject to an overpayment determination due  
30 to failure of the county placing agency to remove the child.

31 (3) Any county placing agency that fails to remove a child from  
32 a group home program under this paragraph within 30 days from  
33 the date of the notice from the interagency placement committee  
34 shall be assessed a penalty in the amount of the state and federal  
35 financial participation in the AFDC-FC rate paid on behalf of the  
36 child commencing on the 31st day and continuing until the child  
37 is removed.

38 (g) (1) If any RCL 13 or RCL 14 group home provider discovers  
39 that it does not have written approval for placement of any  
40 AFDC-FC funded child placed on or after December 15, 1992,



1 from the interagency placement committee, it shall notify the  
2 county placing agency, in writing, and shall request the county to  
3 obtain approval from the interagency placement committee or  
4 remove the child from the group home program. A group home  
5 provider shall have 30 days from the child's first day of placement  
6 to discover the placement error and to notify the county placing  
7 agency.

8 (2) Any county placing agency that receives notification  
9 pursuant to paragraph (2) of subdivision (f) shall obtain approval  
10 for placement from the interagency placement committee or remove  
11 the child from the group home program within 30 days from the  
12 date of the notice from the group home provider. The program  
13 shall not be reclassified to a lower RCL for a violation of the  
14 provisions referred to in this paragraph.

15 (3) (A) If a county placing agency does not have the placement  
16 of a child approved by the interagency placement committee or  
17 removed from the group home within 30 days from the date of the  
18 notice from the group home provider, the group home provider  
19 shall notify the county placing agency and the department, in  
20 writing, of the county's failure to have the placement of the child  
21 approved or remove the child from the group home program.

22 (B) The group home provider shall make the notification  
23 required by subparagraph (A) within five days after the expiration  
24 of the 30-day approval or removal period. If notification is made,  
25 a group home provider shall not be subject to an overpayment  
26 determination due to failure of the county placing agency to remove  
27 the child.

28 (C) Any group home provider that fails to notify the county  
29 placing agency pursuant to subparagraph (A) shall be assessed a  
30 penalty in the amount of the AFDC-FC rate paid to the group home  
31 provider on behalf of the child commencing on the 31st day of  
32 placement and continuing until the county placing agency is  
33 notified.

34 (4) Any county placing agency that fails to have the placement  
35 of a child approved or to have the child removed from the group  
36 home program within 30 days shall be assessed a penalty in the  
37 amount of the state and federal financial participation in the  
38 AFDC-FC rate paid on behalf of the child commencing on the 31st  
39 day of placement and continuing until the child is removed.

1 (h) The department shall develop regulations to obtain payment  
2 of assessed penalties as provided in this section. For audit purposes  
3 and the application of penalties for RCL 13 and RCL 14 programs,  
4 the department shall apply statutory provisions that were in effect  
5 during the period for which the audit was conducted.

6 (i) (1) Nothing in this subparagraph shall prohibit a group home  
7 classified at RCL 13 or RCL 14 for purposes of the AFDC-FC  
8 program, from accepting private placements of children.

9 (2) In cases where a referral is not from a public agency and no  
10 public funding is involved, there shall be no requirement for public  
11 agency review or determination of need.

12 (3) Children subject to paragraphs (1) and (2) shall have been  
13 assessed as seriously emotionally disturbed, as defined in Section  
14 5600.3 and subject to Section 1502.4 of the Health and Safety  
15 Code, by a licensed mental health professional, as defined in  
16 Sections 629 to 633, inclusive, of Title 9 of the California Code  
17 of Regulations.

18 (j) A child shall not be placed in a group home program  
19 classified at an RCL 13 or RCL 14 if the placement is paid for  
20 with county-only funds unless the child is assessed as seriously  
21 emotionally disturbed, as defined in Section 5600.3, subject to  
22 Section 1502.4 of the Health and Safety Code, by a licensed mental  
23 health professional, as defined in Sections 629 to 633, inclusive,  
24 of Title 9 of the California Code of Regulations.